[REPLACEMENT SECTION]

V. SUMMARY OF CLAIMED SUBJECT MATTER

In accordance with 37 CFR §41.37(c)(1)(v) a "concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters" is provided below. There are no means-plus-function or step-plus-function claims involved in the appeal.

Claim 1

The following is a "concise explanation of the subject matter" of independent claim 1. It is only a "concise explanation" and should not be construed as limiting. The entire patent application including the specification is controlling in determining the meaning of the claims. *see Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005).

As described beginning on page 12, line 14 of the specification, a representative canopy 10 is shown in, for example, Figure 1 as well as a framework 12 for such canopy as is shown in, for example, Figure 2. In each of these figures, canopy 10 and framework 12 are depicted in a fully erected state. As is shown, framework 12 includes a plurality of upright supports 14 that form legs disposed at each corner of canopy 10. Upright supports 14 have bottom end portions 15 positionable on a support surface and opposite top end portions 17. Each of upright supports 14 is formed by a pair of telescoping sections 16 and 18 so that the effective height of framework 12 and, thus, canopy 10, may be selectively varied.

As discussed beginning on page 13, line 1, it should be readily appreciated that canopy framework 12 may be erected to an expanded state shown in, for example, Figures 1 and 2 or may be collapsed through an intermediate stage shown in, for example, Figure 3 to a fully collapsed state shown in, for example, Figure 4 in order to facilitate storage of canopy 10. In the collapsed state, support members 14 are oriented alongside one another; in the expanded state, they are spaced-apart from one another. To accomplish this, peripherally adjacent ones of uprights supports 14 are interconnected by means of a scissor assembly as shown in, for example, Figures 2-4, which show a single scissor unit 26. Each scissor unit 26 is formed by a pair of pivotally connected scissor bars 28 and 30 which are pivotally connected to supports 14 by upper mounts in the form of fixed fittings 32 and by slide mounts in the form of fittings 34 as hereinafter described. The outer upper ends of each scissor assembly is connected to a respective fixed fitting 32 while the outer lower ends of each scissor assembly is connected to a respective slide fitting 34.

It is pointed out on page 14, line 1 that an important aspect of the present invention resides in the construction of the fittings, which interconnect the scissor assemblies and the roof support assemblies to the upright supports. The structure of fittings 32 and 34 is introduced beginning on page 14 line 7 and with reference to Figure 6, where it may be seen that upper fitting 32 forms a cap on upper section 16 of upright support 14. Upper fitting 32 includes a pair of generally rigid lobes 44, which are generally oriented at right angles with respect to one another. Each of lobes 44 is provided with a transverse bore extending

therethrough to accommodate the mounting of the scissor units thereto. Lobes 44 have outward, substantially parallel sidewalls 45 that are spaced apart to define a thickness for lobe 44 that, as is shown, is approximately 1/3 of the dimension of one side of fitting 32.

A top plan view of slide fitting 34 is best shown in Figure 9. Here it may be seen that slide fitting 34 includes a central body 52 which has a passageway 54 extending therethrough so that slide bracket 34 may freely slide on section 16 of upright support 14. Slide fitting 34 includes a pair of lobes 56 that are substantially rigid and are generally oriented at right angles to one another.

As described beginning on page 15 line 21 and as is perhaps best shown in Figures 6, 10 and 12-14, each of lobes 44, 56 and 60 are constructed to engage a socket fitting that has portions that are spaced apart from one another to define a channel opening therebetween with at least one of said portions having a substantially flat face thereby to form sliding contact surface with the respective said lobe. For example, in this embodiment, socket-fitting 64 is formed by a main body 66 and a pair of arms 70 that define a channel or cavity therebetween that is adapted to mateably engage a respective said lobe in close-fitted engagement. With this particular construction, a socket 68 is bounded by main body 66 as well as faces 71 of arms 70 that are substantially parallel, spaced apart relationship from one another a distance that is only slightly more than the thickness of lobes 44, 56 and 60. Each of arms 70 is provided with a bore 72, and bores 72 register with a respective bore 50, 58 and 62 in order to

mount socket fittings 64 for pivotal motion on a respective lobe. To this end, pins 74 serve to pivotally connect each socket fitting 64 to its respective lobe.

Continuing on page 16 line 10, each of socket fittings 64 is constructed of strong, durable rigid plastic, again such as nylon 66 or other suitable material, and it should be understood that, when mounted, faces 71 are, respectively, in sliding pivotal contact with flat faces 45, 57 and 61. This sliding contact, along with the relative rigidity of the lobes and arms help resist lateral deflection and torsional movement, especially for scissor units 26. This helps stabilize and rigidify framework 12 during use.

As pointed out on page 17, line 16, the above structure has been described with respect to a canopy framework 12 that includes a single scissor unit 26, which forms a scissor assembly, it should be understood that larger frameworks may be created using the fittings 32, 34, and 64. Thus, for example, as is shown in, for example, Figure 18, a framework 112 may be created wherein two scissor units 126 are connected end-to-end to form a scissor assembly 127. Scissor assemblies 127 then interconnect adjacent ones of upright supports 114. Scissor assemblies 127 have their outer upper ends connected to fittings 132 on the upper corners of upright supports 114 while scissor assemblies 127 have their lower outer corners connected to slide brackets 134.

As described on page 18 line 3, the connection of the scissor assemblies 127 to fittings 132 and 134 are the same as that described with respect to canopy framework 12. Further, it should be understood that the construction of each of fittings 132 and 134 as well as each scissor unit 126 and dome cap 136

correspond to that described with respect to fittings 32 and 34, cap 36 and scissor units 26.

As described beginning on page 19, line 7, since the framework 112 includes two scissor units 126 connected in relation, it is helpful to have a center fitting that will mate with socket fittings 164. Thus, as is shown in Figure 20, center-fitting 133 is provided to have a central portion 135 from which a pair of staggered lobes 137 project. Lobes 137 are provided with faces 145 that are in sliding contact with faces 71 on arms 70 of socket fitting 64. Each of lobes 137 as provided with a bore 150 so as to receive a pin 74 therethrough.

Claim 22

The following is a "concise explanation of the subject matter" of independent claim 22. It is only a "concise explanation" and should not be construed as limiting. The entire patent application including the specification is controlling in determining the meaning of the claims. *see Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005).

As described beginning on page 12, line 14 of the specification, a representative canopy 10 is shown in, for example, Figure 1 as well as a framework 12 for such canopy as is shown in, for example, Figure 2. In each of these figures, canopy 10 and framework 12 are depicted in a fully erected state. As is shown, framework 12 includes a plurality of upright supports 14 that form legs disposed at each corner of canopy 10. Upright supports 14 have bottom end portions 15 positionable on a support surface and opposite top end portions

17. Each of upright supports 14 is formed by a pair of telescoping sections 16 and 18 so that the effective height of framework 12 and, thus, canopy 10, may be selectively varied. As is shown in Figure 1, a flexible covering 20 extends over the top of framework 12 to provide shade and shelter. In addition, side panels 22 may optionally be provided, and an opening may be formed through side panels 22' by means of a closure 24.

As discussed beginning on page 13, line 1, it should be readily appreciated that canopy framework 12 may be erected to an expanded state shown in, for example, Figures 1 and 2 or may be collapsed through an intermediate stage shown in, for example, Figure 3 to a fully collapsed state shown in, for example, Figure 4 in order to facilitate storage of canopy 10. In the collapsed state, support members 14 are oriented alongside one another; in the expanded state, they are spaced-apart from one another. To accomplish this, peripherally adjacent ones of uprights supports 14 are interconnected by means of a scissor assembly as shown in, for example, Figures 2-4, which show a single scissor unit 26. Each scissor unit 26 is formed by a pair of pivotally connected scissor bars 28 and 30 which are pivotally connected to supports 14 by upper mounts in the form of fixed fittings 32 and by slide mounts in the form of fittings 34 as hereinafter described. The outer upper ends of each scissor assembly is connected to a respective fixed fitting 32 while the outer lower ends of each scissor assembly is connected to a respective slide fitting 34.

It is pointed out on page 14, line 1 that an important aspect of the present invention resides in the construction of the fittings, which interconnect the scissor

assemblies and the roof support assemblies to the upright supports. The structure of fittings 32 and 34 is introduced beginning on page 14 line 7 and with reference to Figure 6, where it may be seen that upper fitting 32 forms a cap on upper section 16 of upright support 14. Upper fitting 32 includes a pair of generally rigid lobes 44, which are generally oriented at right angles with respect to one another. Each of lobes 44 is provided with a transverse bore extending therethrough to accommodate the mounting of the scissor units thereto. Lobes 44 have outward, substantially parallel sidewalls 45 that are spaced apart to define a thickness for lobe 44 that, as is shown, is approximately 1/3 of the dimension of one side of fitting 32.

A top plan view of slide fitting 34 is best shown in Figure 9. Here it may be seen that slide fitting 34 includes a central body 52 which has a passageway 54 extending therethrough so that slide bracket 34 may freely slide on section 16 of upright support 14. Slide fitting 34 includes a pair of lobes 56 that are substantially rigid and are generally oriented at right angles to one another. In addition, slide-fitting 32 includes a lobe 60 disposed between lobes 58 in order to connect to a roof support member 38. To this end, lobe 60 includes a bore 62 to accommodate mounting of this roof support member. Lobes 56 have outer sidewalls 57 that define a thickness that is approximately 1/3 the side dimension of slide fitting 34. Lobe 60 has outer faces 61 that are generally parallel to one another and have a thickness similar to lobes 56 and 44.

As described beginning on page 15 line 21 and as is perhaps best shown in Figures 6, 10 and 12-14, each of lobes 44, 56 and 60 are constructed to

engage a socket fitting that has portions that are spaced apart from one another to define a channel opening therebetween with at least one of said portions having a substantially flat face thereby to form sliding contact surface with the respective said lobe. For example, in this embodiment, socket-fitting 64 is formed by a main body 66 and a pair of arms 70 that define a channel or cavity therebetween that is adapted to mateably engage a respective said lobe in close-fitted engagement. With this particular construction, a socket 68 is bounded by main body 66 as well as faces 71 of arms 70 that are substantially parallel, spaced apart relationship from one another a distance that is only slightly more than the thickness of lobes 44, 56 and 60. Each of arms 70 is provided with a bore 72, and bores 72 register with a respective bore 50, 58 and 62 in order to mount socket fittings 64 for pivotal motion on a respective lobe. To this end, pins 74 serve to pivotally connect each socket fitting 64 to its respective lobe.

Continuing on page 16 line 10, each of socket fittings 64 is constructed of strong, durable rigid plastic, again such as nylon 66 or other suitable material, and it should be understood that, when mounted, faces 71 are, respectively, in sliding pivotal contact with flat faces 45, 57 and 61. This sliding contact, along with the relative rigidity of the lobes and arms help resist lateral deflection and torsional movement, especially for scissor units 26. This helps stabilize and rigidify framework 12 during use.

As pointed out on page 17, line 16, the above structure has been described with respect to a canopy framework 12 that includes a single scissor unit 26, which forms a scissor assembly, it should be understood that larger

frameworks may be created using the fittings 32, 34, and 64. Thus, for example, as is shown in, for example, Figure 18, a framework 112 may be created wherein two scissor units 126 are connected end-to-end to form a scissor assembly 127. Scissor assemblies 127 then interconnect adjacent ones of upright supports 114. Here, again, roof supports 138 extend radially outwardly from dome cap 136 and are connected to slide fittings 134 on each upright 114. Scissor assemblies 127 have their outer upper ends connected to fittings 132 on the upper corners of upright supports 114 while scissor assemblies 127 have their lower outer corners connected to slide brackets 134.

As described on page 18 line 3, the connection of the scissor assemblies 127 to fittings 132 and 134 are the same as that described with respect to canopy framework 12. Likewise, the connection of roof support members 138 to dome cap 136 and to fittings 134 is the same as that described with framework 12. Further, it should be understood that the construction of each of fittings 132 and 134 as well as each scissor unit 126 and dome cap 136 correspond to that described with respect to fittings 32 and 34, cap 36 and scissor units 26.

As described beginning on page 19, line 7, since the framework 112 includes two scissor units 126 connected in relation, it is helpful to have a center fitting that will mate with socket fittings 164. Thus, as is shown in Figure 20, center-fitting 133 is provided to have a central portion 135 from which a pair of staggered lobes 137 project. Lobes 137 are provided with faces 145 that are in sliding contact with faces 71 on arms 70 of socket fitting 64. Each of lobes 137 as provided with a bore 150 so as to receive a pin 74 therethrough.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: John T. Matthews, et al.
Appl. No.: 10/712,756
Filed: November 12, 2003
Docket No.: 2003
Title: ***COLLAPSIBLE CANOPY AND FRAMEWORK THEREFOR***
Art Unit: 3637
Examiner: Timothy Michael Ayres

Action: ***Transmittal of Replacement Section***
Date: August 16, 2007

To: Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reference to the above-identified patent application, please find the enclosed Replacement Section for the Summary of Claimed Subject Matter. The Appeal Brief filing fee and extension of time fee were submitted with the original Appeal Brief. Accordingly, Appellant believes there are no outstanding fees payable. The Commissioner is hereby authorized, however, to charge any deficiency in the payment of the required fee(s) or credit any overpayment to Deposit Account No. 13-1940.

Respectfully submitted,

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